



The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

April 5, 2005

Re: Children's Television Obligations Of Digital Television Broadcasters
MM Docket No. 00-167

Dear Chairman Martin and Commissioners:

I am writing to add to the record regarding children's television obligations in the digital environment. In particular, my comments deal with classification of promotions for non-Educational/Informational programming as commercial matter.

I am President of the American Center for Children and Media, a professional development center and executive roundtable. The Center is guided by executives from children's TV and digital media, and supported by their companies. These observations are my own, based on more than 16 years studying children's television programs, services and channels worldwide.

Diluting Minimal Efforts

At heart, the Children's Television Act was intended to compel minimal service from those who provided little or no educational programming for children. Surely, the hope of those who fought to enact it was that the mandated three hours would be a "floor." Unfortunately, it has been more of a "ceiling," with few broadcasters offering children much beyond what's obliged.

For most broadcasters, their three-hour E/I block represents surrender to the way children's media has shifted beneath their feet. Fox and NBC lease their children's blocks to other providers; CBS and ABC fill them with

programming from corporate siblings. Many smaller or unaffiliated stations buy pre-packaged blocks from suppliers like DIC.

Perhaps having to promote those few hours more effectively is the price of surrender, and steps to limit promotion of non-E/I programming make sense for broadcast channels. At three hours per week, any time diverted from limited children's service substantially dilutes the overall effort. Moreover, since most of these channels carry little or no children's programming *except* the E/I shows, any other promos they air are likely to be for programs not aimed at young people.

Moreover, reduction in children's service on broadcast channels would have a particularly pronounced effect on families with only over-the-air TV, which one might assume to be largely families with few other media resources.

Unbalancing Diverse Children's Services

On several fronts, however, it makes little sense to apply such handcuffs to full-time children's cable channels.

These channels take the broadest view of children's lives, acknowledging that *young people want and deserve the same variety of entertainment and information that adults expect from television*. Lord Reith – first Director General of the BBC – could never have conceived of Nickelodeon, Noggin, Cartoon Network or Discovery Kids, but he defined the mission even of public service media as “to inform, educate *and entertain*.”

Rather than surrender to the shifting environment, the cable channels are trying to build multi-media destinations structured to the rhythms, interests, needs and abilities of today's children. They want children to see the channels as authentic and trustworthy, representative of their whole lives, not just one aspect. As result, when the channels offer educational programs or public affairs initiatives (e.g., Nickelodeon's “Worldwide Day of Play,” The N's “Miracle's Boys” or Cartoon Network's “Get Animated”), young people are more inclined to pay attention, because they come from a reliable and favored source.

The channels' preschool blocks – Nick Jr., Noggin, Ready Set Learn, and the emerging Tickle U – are educational and either non-commercial or limited in commercial content. They tend to be built around short-form elements that create a welcoming, developmentally supportive environment. Even though the CTA's provisions don't cover them, most children's cable networks have fulfilled the three-hour weekly E/I obligation by Monday noon, via these blocks.

Older children treat these channels as a destination, more than they engage in program-by-program appointment viewing. Given this habit, tune-in

promotion (with the exception perhaps of special events) serves more as brand building. This dilutes arguments that channels count on compensation from self-promotion in the form of increased audiences.

Given all of the above, I would argue that counting non-E/I program promos as commercial matter is cumbersome and counter-productive for channels that are trying to give children a diverse schedule that is balanced in content and style. Whereas favoring promotion for E/I programming would *put into balance* a limited block of time on broad audience channels, it would *substantially unbalance* full-time cable children's channels, demanding that they emphasize educational programs all day.

Classifying Cable Programming

Since cable channels are exempted from the E/I provisions of the CTA, who will determine which programs qualify for non-commercial promotion?

International Program Standards

Some suggest that promotion limits would encourage telecasters to produce longer shows. Because most series today are sold and broadcast in more than one country, it's not feasible to change lengths unilaterally. As an example of the challenges engendered by non-uniform programming, U.S. public broadcasting's standard length is the world's longest (except for Japan's NHK), and every PBS series must either be extended for the U.S. or shortened for international sale.

For this reason, before enacting rules that might affect program length, it would be wise to commission research into the economic impact not only on U.S. channels, but more so on independent producers, who are already struggling to maintain US-based production.

Historical Context

In their March 23, 2005 comments titled "Opposition To Petitions For Reconsideration," the Children's Media Policy Coalition makes arguments regarding non-program content and the advertising market, based on 1974 studies. These predate not only the Children's Television Act, but also niche cable channels, the Internet, VCRs (not to mention DVRs), and a majority of households having more than one TV set (per Nielsen Media Research, cited at <http://www.tvb.org/rcentral/mediatrendstrack/tv/tv.asp?c=multiset>).

To say that non-program content increased 36% between 1984 and 2003 similarly ignores changes in the media landscape over 19 years. Further, the non-program content cited was during prime time, when children's programming limits don't apply to most channels. A more meaningful figure would be whether non-program material has increased in children's blocks

and channels since enactment of the CTA, since this would indicate whether telecasters are trying to – in effect – get around legal commercial limits.

These comments are respectfully submitted for consideration. Please don't hesitate to contact me if I might answer any questions about them.

Sincerely,

A handwritten signature in cursive script that reads "David W. Kleeman".

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